

# Exhibit C

Charles Sweeney

11/21/2006

UNITED STATES DISTRICT  
DISTRICT OF MASSACHUSETTS

Civ. Action No. 04-10294 DPW

DEBORAH CHIN, individually and on  
behalf of all others similarly  
situated,

Plaintiff,  
vs.  
SONUS NETWORKS, INC., HASSAN  
AHMED, PH.D. AND STEPHEN NILL,  
  
Defendants.

DEPOSITION OF CHARLES SWEENEY

November 21, 2006

Wyndham Hotel  
8100 International Drive  
Orlando, Florida 32819  
9:27 a.m. - 12:29 p.m.

Reported by:  
Lori Junker, RPR  
Notary Public, State of Florida

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1           Q     **Prior to your current situation as being**  
2           **self-employed, where did you work?**

3           A     I was control and chief compliance officer  
4           BPI Global Asset Management from April 1997 through  
5           October of last year.

6           Q     **Did you hold both of those positions at**  
7           **BPI Global throughout your tenure there?**

8           A     I would say -- I held the  
9           responsibilities. The chief compliance officer  
10          designation came about as a result of changes and  
11          regulations. The SEC mandated that advisors must  
12          have a CCO, and I was the person who was designated  
13          as such.

14          Q     **Do you recall when you were designated as**  
15          **CCO?**

16          A     Not specifically, no.

17          Q     **Would that have been in 2002?**

18          A     It had to do with -- there's a specific  
19          regulation that the SEC put out related to investment  
20          advisors and investment companies, nothing to do with  
21          Sarbanes-Oxley.

22          Q     **If we break these down for a moment, what**  
23          **were your duties and responsibilities as controller**  
24          **of BPI Global?**

25          A     Anything from a financial accounting point

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1 relationship is.

2 BY MR. PRENDERGAST:

3 Q I understand that BPI Capital was the,  
4 quote, end quote, manager?

5 A That is correct.

6 Q And BPI Global had an investment advisor  
7 agreement in most cases with the manager; is that  
8 correct?

9 A That is correct.

10 Q And then the manager had a direct  
11 contractual relationship with the client?

12 A Individual funds.

13 Q The individual funds?

14 A Correct.

15 Q Now --

16 A I stand corrected.

17 Q Did BPI Global have any direct contractual  
18 relationship with these clients?

19 MR. CERA: Object to the form.

20 BY MR. PRENDERGAST:

21 Q Do you understand the question?

22 A Yes, I believe so. The specific -- for  
23 example, the Canadian mutual fund clients and  
24 Canadian hedge fund clients that were structured as  
25 mutual funds, our agreement was with BPI Capital

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1 Corporation. The hedge funds were -- had a private  
2 placement memorandum, limited partnership agreement  
3 underlying it, and individuals subscribed to become  
4 limited partners into those.

5 So the client there again was the fund or  
6 the limited partnership or the LLC, as the case might  
7 be, where individuals would indirectly be considered  
8 clients but not truly clients. Separate accounts  
9 would be subject to an advisor agreement with BPI.

10 Q **With respect to the LLPs and LLCs, what  
11 was BPI Global's relationship with them?**

12 MR. CERA: Object to the form.

13 MR. PRENDERGAST: Legal relationship.

14 MR. CERA: Which entities are you asking  
15 about?

16 MR. PRENDERGAST: He said the LLPs and  
17 LLCs he was just describing.

18 THE WITNESS: BPI Global Asset Management  
19 was general partner of BPI Global Opportunities  
20 Fund, LP; BPI Global Opportunities Fund VII, LP;  
21 BPI American Opportunities Fund, LP. There were  
22 two LLCs for which it was only a member but also  
23 served as investment advisor. It was not the  
24 managing member of the two LLCs, one of which I  
25 think -- it's not on the list I think here, but

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1 MR. CERA: Object to the form.

2 THE WITNESS: Okay.

3 BY MR. PRENDERGAST:

4 Q **Do you understand the question?**

5 MR. CERA: I don't know what you mean by  
6 legal relationship.

7 MR. PRENDERGAST: Well, in some cases he  
8 said they were a general partner and in some  
9 cases he said they were investment advisors and  
10 in some cases he said --

11 THE WITNESS: In all cases we're an  
12 investment advisor.

13 MR. PRENDERGAST: In all cases you were  
14 investment advisor, but in some cases you are  
15 general partner. In some cases you're just a  
16 member, so I'm looking for those  
17 identifications.

18 THE WITNESS: Okay. First of all, just to  
19 clarify a point that you had made, you said  
20 certain transactions, and I would like to say it  
21 reflects all transactions in Sonus Networks  
22 stock by -- by BPI Global Asset Management as  
23 investment advisor for these various funds. To  
24 the best my knowledge, this is a complete list  
25 of all such transactions, none of them omitted,

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1 and there are no extras as well.

2 MR. CERA: Just so we're clear, this is  
3 Sweeney Exhibit 2 beginning on page 5 of the  
4 exhibit.

5 THE WITNESS: It ends -- it's listed as  
6 page 7 of --

7 MR. CERA: Yeah, it's confusing, but it's  
8 page 5 of Sweeney Exhibit 2.

9 MR. MATULE: Just so I'm clear, the  
10 statement that the witness just made, is that  
11 for all time or only for the time frame listed  
12 on the document?

13 THE WITNESS: For the period subject to  
14 the suit, so from March '02 to March '04.

15 MR. MATULE: Okay. Irrespective of the  
16 fact that the document has a begin date of May  
17 12, '03 and an end date of April 8, '04?

18 THE WITNESS: I --

19 MR. CERA: I'm not going to let you ask  
20 questions out of turn.

21 MR. MATULE: I'm looking for  
22 clarification, that's all.

23 MR. PRENDERGAST: I'll ask the question  
24 then.

25 BY MR. PRENDERGAST:

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1           **Q      Just identify those for me.**

2           A      BPI American Equity Sector Fund, BPI  
3           American Opportunities Fund, BPI Global Equity Fund,  
4           BPI Global Equity Sector Fund, BPI Global  
5           Opportunities Fund, BPI Global Opportunities II fund,  
6           BPI Global Opportunities III Fund. I believe those  
7           are the ones that were subject to that agreement  
8           dated May 31, 1999.

9           **Q      So that's the May 31 agreement.**

10          A      Okay. Back to that first page. BPI  
11          American Opportunities Fund LP, BPI Global was the  
12          general partner and investment advisor.

13                 BPI Global Equity Hedge Fund, investment  
14          advisor only for BPI Global.

15          **Q      Can I stop you there for one moment?**

16          A      Certainly.

17          **Q      So I take it that BPI Global Equity Hedge**  
18          **Fund, there was no separate manager?**

19          A      I don't recall. It is a foreign mutual  
20          fund started by the former chairman, I think, of BPI  
21          Capital years ago, but beyond that I don't know.

22          **Q      So did BPI Global have a direct**  
23          **contractual relationship with BPI Global Equity Hedge**  
24          **Fund?**

25          A      I do not recall specifically. I would say

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1 probably, but I don't know.

2 Q Please continue.

3 A BPI Select Opportunities Fund LP, BPI  
4 Global was the general partner and investment  
5 advisor; Dougherty Strategic Equity fund LLC, BPI  
6 Global Asset Management was the investment advisor  
7 and was a member but not a managing member; Northern  
8 Trust Multi-Manager Fund DVG 23, BPI Global was the  
9 investment advisor; Fondation Generale de British  
10 American Tobacco, investment advisor only for BPI  
11 Global; Fondation Prevoyance de British American  
12 tobacco, also investment advisor only.

13 Q Could I stop you there for one moment?

14 A Certainly.

15 Q On those three funds: Northern Trust,  
16 Fondation Generale de British American Tobacco, and  
17 Fondation Prevoyance de British American Tobacco, was  
18 there a manager for those funds?

19 A I think there was, but I don't  
20 specifically recall. It would have been Northern  
21 Trust.

22 Q Do you know if BPI Global had any direct  
23 contractual relationship with these funds?

24 A Without looking at the advisor agreements,  
25 I don't recall.

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1           Q     I'm sorry. Would you please continue.

2           A     BPI Global Opportunities Fund VII LP, BPI  
3     Global was the general partner and investment  
4     advisor; BPI Global Opportunities Fund LP, general  
5     partner and investment advisor; Mediolanum Top  
6     Managers Balanced Fund, investment advisor;  
7     Mediolanum Top Managers Country Fund, investment  
8     advisor; Mediolanum Top Managers Opportunities Fund,  
9     investment advisor; OPTIMA Strategy US Diversified  
10    Pool, investment advisor.

11          Q     For the last four that you mentioned, last  
12    four funds, do you know whether these funds had a  
13    separate manager?

14          A     Again, I would prefer to look at the  
15    agreement itself. I think the answer to that  
16    question is yes.

17          Q     Do you know if BPI Global had a direct  
18    contractual relationship with any of these last four  
19    funds that you've mentioned?

20          A     Again, without looking at the document,  
21    I'm not certain, but I would say the answer is  
22    probably yes.

23          Q     Okay. You mentioned one, and I believe  
24    that was Dougherty Strategic Equity Fund LLC in which  
25    BPI Global was both the investment advisor and a

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1 member.

2 A Yes, sir.

3 Q Was there a separate managing member for  
4 Dougherty?

5 A Yes, there was.

6 Q Do you know who that was?

7 A Not specifically. It was in the  
8 Dougherty --

9 Q Family?

10 A Family, yes.

11 Q What's the difference between a managing  
12 member and a member, if you know?

13 MR. CERA: Object to the form.

14 BY MR. PRENDERGAST:

15 Q Do you understand that question?

16 A I would -- again, I can't give you a legal  
17 definition.

18 Q Your understanding.

19 A But the managing member would make  
20 decisions as to things like auditors, accountants,  
21 operational decisions in terms of money being spent  
22 if there were any; whereas the investment advisor  
23 would be the person who was managing the assets, the  
24 investment assets of the fund.

25 Q Do you have an understanding one way or

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1 previously been done on the entity and the  
2 individual who expressed the interest would sign  
3 the subscription agreement agreeing to the terms  
4 of the subscription agreement.

5 BY MR. PRENDERGAST:

6 Q I take it one of the terms, and tell me if  
7 you know or don't know, was that you had to put up  
8 some amount of money?

9 A I guess. To subscribe to the partnership  
10 you would invest a sum in the partnership or the LLC,  
11 rather.

12 Q Did BPI Global invest in Dougherty  
13 Strategic Equity Fund?

14 A It was an investor, yes.

15 Q For those funds in which you identified  
16 BPI Global as a general partner, did BPI Global  
17 invest in those funds?

18 A They had invested a sum of money, yes.

19 MR. CERA: Object. All of them?

20 THE WITNESS: Where the firm was a general  
21 partner in the limited partnerships, they were  
22 also an investor and invested a sum of money.

23 BY MR. PRENDERGAST:

24 Q In those partnerships, limited  
25 partnerships in which it was a general partner, were

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1 A 1977. From 1991 to '94 I was with Coopers  
2 Lybrand and before that Laventhal & Horwath.

3 Q While you were employed by BPI Global were  
4 you employed by any of the other BPI entities  
5 simultaneously?

6 A No, sir.

7 Q Were you ever employed by CI Mutual Funds?

8 A No, sir.

9 Q Were you ever employed by Trilogy Global  
10 Advisors?

11 A Let me step back -- I'm frankly not sure.  
12 BPI Global and Trilogy Advisors merged in May of '05.

13 Q Right.

14 A Trilogy Global Advisors was the owner of  
15 both entities after the transaction and -- I'm not  
16 sure who paid me specifically, although I consider  
17 myself employed by, I guess, both of them because I  
18 was CCO of Trilogy and also BPI during those two  
19 final months.

20 Q Why did you leave BPI Global?

21 A I was terminated.

22 Q Do you know the reasons for your  
23 termination?

24 A The compliance function and financial  
25 functions were moved to New York.

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1 statements. And there were some other matters, as I  
2 understand it, expense accruals and so forth, and  
3 that is -- once all that news was made public, the  
4 value of the stock declined, our clients lost money,  
5 and BPI being a fiduciary is looking to make our  
6 clients whole.

7 Q You mentioned you had an understanding  
8 there was erroneous revenue and some other things.

9 A Accruals or something like that.

10 Q Where did you gain your understanding in  
11 that regard?

12 A I was made aware of it by counsel.

13 Q By counsel?

14 A Uh-huh.

15 Q What counsel?

16 A Sol's firm.

17 Q At some point did you have a discussion  
18 with John Bichelmeyer regarding Sonus?

19 A I did.

20 Q Would you tell me what he said to you and  
21 what you said to him regarding the erroneous  
22 revenues.

23 A I don't have the specific recollection of  
24 a conversation, but generally speaking, before we  
25 decided to take this role, I spoke to John and

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1 explained that there were some problems with Sonus in  
2 terms of the investment that we made and we had lost  
3 money on behalf of our clients and asked him what his  
4 thoughts were, not telling him so much but asking  
5 him, and he was aware of the situation and told me  
6 about it and his reaction was that he thought that we  
7 as investment advisors and fiduciaries should pursue  
8 this action.

9 Q How many conversations with Mr.

10 Bichelmeyer did you have on this topic?

11 A I would say not a lot. I mean, one or  
12 two.

13 Q Do you recall when you may have had those  
14 conversations?

15 A April '04.

16 Q Did you approach Mr. Bichelmeyer or did  
17 Mr. Bichelmeyer approach you?

18 A I approached him.

19 Q Prior to approaching Mr. Bichelmeyer what  
20 did you do to learn of the situation at Sonus with  
21 regard to revenues?

22 A Basically listened to our lawyers who had  
23 done a substantial amount of due diligence work and  
24 hired people to investigate the problems that were  
25 out there and to seek information.

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1 Q Who was the law firm that represented BPI  
2 Global in the other class action, if you remember?

3 A I do not remember.

4 Q Did you have any other conversations with  
5 any other law firms regarding a possible suit against  
6 Sonus?

7 A I want to say I think I did only just to  
8 ask the question, Is this firm real? I called my  
9 lawyer or the firm's lawyer and asked him if he knew  
10 anything about them and --

11 Q I will stipulate that I think his firm is  
12 real.

13 MR. CERA: Oh, good.

14 MR. PRENDERGAST: That's the last  
15 concession you get from me.

16 BY MR. PRENDERGAST:

17 Q Have you read the complaint in this case?

18 A I've had the complaint, yes. There was a  
19 draft complaint that I was given and then from that  
20 the first complaint was filed and then the first  
21 amended complaint was filed.

22 Q Did you provide any of the information  
23 that went into the draft complaint?

24 A I would say but for this schedule, you  
25 know, there's little information we provided.

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1           Q     I'm sorry?

2           A     Little information, if any.

3           Q     But for the schedule, the losses?

4           A     Yes.

5           Q     Apart from what you may have learned from  
6     your lawyers, did you make any assessment as to  
7     whether or not the company had intentionally  
8     misrepresented any facts to the public?

9                   MR. CERA: Object to the form.

10                  THE WITNESS: I would say we relied  
11     principally on our lawyer.

12     BY MR. PRENDERGAST:

13           Q     Who at BPI Global -- strike that?

14                  Who approved the filing of this lawsuit?

15           A     I would have signed the documents as  
16     controller.

17           Q     Did you speak with any of the folks to  
18     whom you reported before filing this lawsuit about  
19     commencing this lawsuit?

20           A     I spoke, I think, briefly with Ryan  
21     Burrow.

22           Q     Is it Brian or Ryan?

23                   MR. CERA: Ryan, R-Y-A-N.

24                  THE WITNESS: Ryan Burrow, the president,  
25     and just had a short general conversation. And

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1 because we had been through it before and  
2 understand our fiduciary obligation to our  
3 clients, you know, he realized it would be --  
4 the onus would be on me, not him.

5 BY MR. PRENDERGAST:

6 Q Approval is easy when you don't have to do  
7 anything.

8 I apologize, I should know this off the  
9 top of my head, what was the name of the other  
10 litigation?

11 A Turkcell.

12 MR. CERA: T-U-R-K-C-E-L-L.

13 BY MR. PRENDERGAST:

14 Q Had BPI Global been involved in any other  
15 class actions besides Turkcell at that point?

16 A No, sir.

17 Q Had BPI Global brought any other claims  
18 against a company in which it invested in a legal --  
19 strike that. Bring any other lawsuits against  
20 companies which any of your entities invested in?

21 A We were not involved in the filing of the  
22 lawsuits; however, to the extent that we received the  
23 flow of forms, you know, we would fill out the forms  
24 and provide the paperwork as necessary.

25 Q Thank you. Other than the one or two

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1 bat for them. There's no specific authority  
2 that I'm aware of that says, you know, filing  
3 lawsuits against companies that we invest in  
4 that lose money.

5 BY MR. PRENDERGAST:

6 Q Did you see the amended complaint in this  
7 case --

8 A I did.

9 Q -- before it was filed?

10 A I believe so.

11 Q Now, in 2005 you left BPI Global, correct?

12 A Yes.

13 Q Did you speak with anybody upon your  
14 departure from BPI Global regarding oversight of this  
15 litigation?

16 A John Myklusch, M-Y-K-L-U-S-C-H.

17 Q Who is John Myklusch?

18 A John is the chief financial officer and  
19 now chief compliance officer of Trilogy Global  
20 Advisors which is a successor entity to the  
21 individual entities that merged in May of 2005.

22 Q Why did you speak to Mr. Myklusch?

23 A Because he is the chief financial officer  
24 and chief compliance officer of the successive entity  
25 and would be responsible for such matters.

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1 you like.

2 THE WITNESS: I'm okay.

3 MR. CERA: Just a couple minutes.

4 (A brief recess was taken.)

5 BY MR. PRENDERGAST:

6 Q Turning back for a moment, sir, to Exhibit  
7 No. 2, if we turn just before the schedule which we  
8 were talking about earlier, there is a certificate of  
9 plaintiff. Do you see that?

10 A Yes, I do.

11 Q That's -- it bears an execution date of  
12 April 8, 2004, and a signature on behalf of BPI  
13 Global. Is that your signature?

14 A Yes, it is.

15 Q When did you see this certificate?

16 A I would guess April 8, 2004, or shortly  
17 there before.

18 Q What did you do to satisfy yourself  
19 regarding the certifications that are set forth in  
20 this document?

21 MR. CERA: Object to the form. You can  
22 answer if you understand.

23 THE WITNESS: I reviewed the complaint,  
24 which is the first representation. The second  
25 item was that we did not buy the shares in order

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1 to enter into this lawsuit. We were willing to  
2 serve as a representative party on behalf of the  
3 class having attempted to do so previously. We  
4 did buy and sell the stocks as indicated and the  
5 three years prior -- I'm not sure where the  
6 Turkcell matter fits into it, but we've not done  
7 five, so certainly that's clear. We're not  
8 being paid to serve as the class representative.  
9 And so having just reviewed them now, I'd say --

10 BY MR. PRENDERGAST:

11 Q Say they were correct at the time you --

12 A Yes, sir.

13 Q Well, on the subject of the fourth  
14 certification including providing testimony at  
15 deposition and trial, if necessary, do you know who,  
16 if anyone, at BPI is prepared to do that now that  
17 you've left?

18 A Well, I'm prepared still. My successor,  
19 John Myklusch, would be prepared to do so, and then  
20 speaking with Mr. Bichelmeyer initially I said this  
21 would require you to testify, and to the best of my  
22 knowledge, he's willing and able to testify at trial  
23 as well.

24 Q Thank you. At any point were you asked to  
25 collect documents related to this case to provide to

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1           A     And it does not appear to be really  
2 defined there as well.

3           Q     That's why I asked the question. Do you  
4 have an understanding in terms of -- strike it out.

5                   Do you have an understanding of the  
6 meaning of "Advice" as it is used in this agreement  
7 in practice?

8           A     My understanding of the word "Advice" as  
9 it is used in this agreement is that it involves  
10 investing with full discretion the asset -- the money  
11 that's invested in the various funds by the investors  
12 of the individual funds and making a determination of  
13 when to buy those funds, when to sell those funds,  
14 from whom to -- you know, who to use as an executing  
15 broker on either end of those transactions and to  
16 vote proxies as need be.

17           Q     Can you identify for me, sir -- strike it  
18 out. What do you mean by full discretion?

19           A     It means -- as I say, we as investment  
20 advisor -- BPI Global as an investment advisor makes  
21 the decision what to buy, when to buy it, how much to  
22 pay for it, who to buy it through, how to vote the  
23 proxies and any other matters that pertain to the  
24 security.

25           Q     Within this agreement, sir, can you

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1 approval of the manager as set forth in the prefatory  
2 paragraph, paragraph 6?

3 A Again, I'm not a lawyer, but I would  
4 interpret that as giving BPI Capital the ability to  
5 step in, as the case might be. But to the best of my  
6 knowledge, during the entire history of this account,  
7 they have not come and said you should invest in this  
8 stock or you shouldn't invest in a particular name.

9 Q You understand, and correct me if I'm  
10 wrong, however, that they did have that right?

11 MR. CERA: Object to the form. Go ahead.

12 THE WITNESS: As a two-thirds owner of BPI  
13 Global, BPI Capital certainly could control  
14 whatever BPI Global did, and they could somehow  
15 instruct on any variety of topics.

16 BY MR. PRENDERGAST:

17 Q Per this agreement did the manager have  
18 the right to provide instructions or approval to BPI  
19 Global as to how BPI Global executed securities  
20 transactions?

21 MR. CERA: I'll object to the form. Vague  
22 and ambiguous.

23 BY MR. PRENDERGAST:

24 Q Do you understand that question?

25 A I would say that they have a right,

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1           certainly, but at the same time I would say that as a  
2           practical matter BPI Global ran autonomously.

3           MR. PRENDERGAST: Move to strike  
4           everything after they had the right.

5           MR. MATULE: I second the motion.

6           MR. CERA: They didn't like your answer.

7           BY MR. PRENDERGAST:

8           Q       Turn to paragraph 6E. With respect to  
9           voting, am I correct that the manager could, if it  
10          wanted, direct the advisor per this agreement as to  
11          how to vote any security?

12          A       Again, they probably could, but as a  
13          practical matter, they did not attempt or even unduly  
14          influence any decisions that were made by BPI Global.

15          MR. PRENDERGAST: Move to strike  
16          everything after they probably could.

17          MR. MATULE: Same.

18          BY MR. PRENDERGAST:

19          Q       Turn, if you will, sir, to paragraph 7 on  
20          page 7, and directing your attention -- and please  
21          read the full paragraph if you care to. But  
22          directing your attention to the sentence after the  
23          parenthetical about midway through that begins, "The  
24          manager will promptly advise." Do you see that  
25          language?

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1 A Yes, I do.

2 Q There's a reference to that language. Am  
3 I correct that the manager could amend the investment  
4 objectives and/or the investment restrictions and  
5 practices without the approval of the advisor?

6 A Yes.

7 Q Now, in the sentence thereafter it says,  
8 "The investment advisor agrees to make investment  
9 recommendations and decisions thereafter."

10 Is there a difference between investment  
11 recommendations and decisions?

12 A In my mind, I would say that they're the  
13 same.

14 Q Do you know why two different phrases are  
15 used for the same thought in this agreement?

16 A I do not.

17 MR. CERA: Object to the form.

18 THE WITNESS: I do not.

19 BY MR. PRENDERGAST:

20 Q Paragraph 8, with reference to the first  
21 sentence of that paragraph, I think it's actually one  
22 sentence, am I correct that the manager had the right  
23 to direct the investment advisor regarding the  
24 disposal of any investment asset?

25 A Could you ask the question again, please.

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1           A       BPI Global did not have any conversations  
2       with anyone at BPI Capital at the inception of the  
3       lawsuit, as we believed that we're a fiduciary and  
4       have responsibility for our clients' assets.

5           **Q       Referring back to the investment advisor**  
6       **agreement, which is attached to your affidavit, sir,**  
7       **which is Exhibit 3, I believe, is there a specific**  
8       **provision in there on which you rely for the**  
9       **authority to commence this lawsuit?**

10          MR. CERA: Object to form. The document  
11       speaks for itself.

12          THE WITNESS: There is a section that I  
13       read previously. On page 5, Section 5D, wherein  
14       we acknowledge -- BPI Global acknowledges it is  
15       a fiduciary to the manager in each of the funds  
16       and assumes the duties and responsibility of  
17       such fiduciary.

18          In our capacity as fiduciary, we're  
19       entrusted with protecting our clients' assets to  
20       the best that we can and to represent those who  
21       cannot represent themselves in such matters  
22       because we are the people who made the ultimate  
23       decision to buy and sell the securities.

24       BY MR. PRENDERGAST:

25       **Q       Is that the only provision on which you**

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1       **rely for the authority to commence this lawsuit?**

2                    MR. CERA: Object to the form.

3                    THE WITNESS: I don't have an answer for  
4                    that question. As best as -- I did not refer to  
5                    the agreement at the commencement of the  
6                    lawsuit.

7                    BY MR. PRENDERGAST:

8                    Q       **As we sit here today are you aware of any**  
9                    **other provision in this document which provides BPI**  
10                  **Global with the authority to commence this lawsuit?**

11                  A       I'm not aware of any provisions that would  
12                  indicate that the investment advisor, BPI Global,  
13                  would be responsible for filing lawsuits on behalf of  
14                  its clients.

15                  MR. PRENDERGAST: Can we take a few  
16                  minutes?

17                  MR. CERA: Yes.

18                  MR. PRENDERGAST: Thank you.

19                  (A brief recess was taken.)

20                  BY MR. PRENDERGAST:

21                  Q       **In retaining Mr. Cera's firm, did you have**  
22                  **discussions regarding the amount of fees that Mr.**  
23                  **Cera's firm would request as counsel in this case**  
24                  **should be there be a recovery?**

25                  A       It's a contingent fee arrangement. BPI

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1       wouldn't have to pay any piece if they were handed  
2       out an award.

3           Q     Did you discuss the percentage of the  
4       recovery that Mr. Cera's firm would request from the  
5       court?

6           A     I don't recall any discussions.

7           Q     So your only discussion was -- with regard  
8       to fees was that BPI Global would not have to pay  
9       any?

10          A     That it would be borne out of the  
11       recovery, and if there were no recovery, there would  
12       be no fees, a contingent basis.

13          Q     I just want to try to get down what the  
14       current structure is with Trilogy and everybody.

15          A     That would -- the current structure --

16          Q     Hold on. I will, in all fairness, ask a  
17       question.

18          A     Okay.

19          Q     There was a transaction in 2005 with  
20       Trilogy; is that correct?

21          A     That is correct.

22          Q     Who were the relevant Trilogy entities  
23       involved in that transaction --

24                   MR. CERA: Object to the form of all these  
25       questions. They lack foundation.

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1                   MR. CERA: No, that's not what he said.

2                   MR. MATULE: Would you like to testify  
3                   too?

4                   MR. CERA: No. I'm allowed to point out  
5                   that I think it's a misstatement of testimony.

6                   MR. MATULE: I think he's the one who is  
7                   most suited, other than the record, to reflect  
8                   what exactly he did testify to.

9                   THE WITNESS: I believe that was the  
10                  response that I gave, that I contacted our  
11                  attorney at Holland & Knight and just asked  
12                  about the firm in general.

13                  MR. CERA: Holland & Knight.

14                  MR. MATULE: That's what I was getting to,  
15                  that my recollection of the testimony was, in  
16                  fact, correct.

17                  Thank you, Mr. Sweeney. I have no further  
18                  questions.

19                  MR. CERA: Thank you.

20                  THE COURT REPORTER: Do you want the  
21                  witness to read and sign?

22                  MR. MATULE: Yes, I think he should read  
23                  and sign before the 30 days.

24                  THE COURT REPORTER: Would you like this  
25                  transcribed?